

EXHIBIT 4

1987 MAR transcript and Judge Walker's July 8, 1988 order denying the MAR

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2 COUNTY OF CABARRUS SUPERIOR COURT DIVISION

3 Case No. 76-CRS-5708
4 76-CRS-5709

5 STATE OF NORTH CAROLINA)
6 Vs.) TRANSCRIPT OF PROCEEDINGS
7 RONNIE WALLACE LONG,)
8 Defendant.)
9 _____)

10
11 APPEARANCES:

12 For the State: Mr. Bob Roberts
13 District Attorney
Cabarrus County, North Carolina

14 For the Defendant: Mr. Steven A. Grossman
15 Attorney at Law
Kannapolis, North Carolina

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18 THIS MATTER COMING ON TO BE HEARD during the week of
19 December 12, 1987, and being reached for hearing on the 16th
20 day of December, 1987, before His Honor, Russell G. Walker, Jr.,
21 Judge Presiding, the following proceedings were held, to wit:

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23
24
25

I N D E X

WITNESSES FOR THE DEFENDANT:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
1. James Fuller	5	27	
2. Erwin Spainhour	34	35	
3. Karl Adkins	38	49	
4. John Kennedy	51	59	
5. Harvey Cannady	65		
6. Ira Padgett	66	68	69
7. Estus White	69	70	73
8. Dale Ritchie	78	83	

EXHIBITS FOR THE DEFENDANT:

	<u>Introduced</u>	<u>Evidence</u>
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4. Transcript	4	4
5. State v. Harbison transcript	10	42
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P R O C E E D I N G S

MR. ROBERTS: Your Honor, at this time the State is calling State versus Ronnie Wallace Long, file numbers 76-CRS-5708, 5709.

Your Honor, on or about August 1, 1986, the defendant, Ronnie Wallace Long, filed a motion for post-conviction relief. That motion was filed pro se. Subsequently Mr. Steve Grossman was appointed to represent him in the post-conviction. Mr. Grossman filed a second motion on behalf of the defendant and then after State v. Cofield filed a supplement to the second motion, Your Honor. And the matter comes before the Court this morning for hearing based upon the allegations set forth in the defendant's original, amended and supplementary motions for post-conviction relief.

MR. GROSSMAN: Judge, Mr. Long is not in court at this time; he is in the county jail.

THE COURT: Have you given him a transcript?

MR. ROBERTS: I haven't given him anything.

MR. GROSSMAN: I will introduce the transcript of the original proceedings into evidence. Mr. Roberts, I believe, will make that available to the Court.

MR. ROBERTS: Yes, Your Honor, the State will do that.

Your Honor, I am advised that the defendant's family took

1 his clothing home to have it dry cleaned or laundered and has
2 not returned it to him and at this moment he only has jail
3 clothing. I think the law prohibits his entry in a courtroom
4 without proper attire.

5 THE COURT: That's an unusual wrinkle.

6 MR. GROSSMAN: I can assure Your Honor we didn't
7 plan it that way.

8 MR. ROBERTS: So if it pleases the Court, I will
9 bring Mr. Speas back in and we will proceed on the other
10 matter until the defendant gets properly attired.

11 THE COURT: All right. We don't want to do anything
12 improper.

13 -- SHORT RECESS --

14 MR. GROSSMAN: Before we broke, I introduced into
15 evidence the prior transcript. It's in four documents, or
16 rather four binders, so I marked them 1, 2, 3 and 4. If I
17 might introduce that formally into evidence and hand that up.

18 THE COURT: All right, petitioner's exhibits 1, 2,
19 3 and 4, being the copies of the transcript of the trial, may
20 be received into evidence.

21 MR. GROSSMAN: Thank you, Your Honor.

22 Your Honor, Mr. Long is present. We call Mr. James
23 Fuller to the stand.

24 MR. ROBERTS: Your Honor, I would like to get a
25 stipulation into the record before we proceed.

1 THE COURT: All right, Mr. Roberts.

2 MR. ROBERTS: It's obvious that the Court's going
3 to have to read those documents and so forth, and we would
4 call on the defendant to stipulate that the Court can enter
5 its order out of term and out of district after consideration
6 of all of the evidence.

7 MR. GROSSMAN: So stipulated.

8 THE COURT: All right, thank you, Mr. Roberts.

9 JIM FULLER, being duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. GROSSMAN:

11 Q State your name, please, sir.

12 A Jim Fuller.

13 Q Mr. Fuller, how are you employed, sir?

14 A I'm a lawyer.

15 Q All right, were you so licensed by the North Carolina
16 Supreme Court in 1972?

17 A Yes.

18 Q And the State Bar, I guess, actually.

19 A Yes.

20 Q All right, how long have you been licensed as a
21 practicing attorney?

22 A '70 or '71.

23 Q Did you formerly represent Ronnie Long in this case?

24 A Yes.

25 Q Do you recall what year and date this case was heard?

1 A. No.

2 Q. All right, to refresh your recollection, does September
3 of '76 sound about correct?

4 A. Yes, sir.

5 Q. Approximately, if you recall, how long had you been
6 licensed as a trial attorney, or licensed as an attorney,
7 prior to September of 1976?

8 A. Six years, I guess.

9 Q. All right. Mr. Fuller, what was your primary practice
10 in 1976, primary area of practice?

11 A. Criminal law and civil rights law.

12 Q. What law firm were you associated with?

13 A. Well, it went through several combinations and permutations.
14 It was the Chambers firm; Chambers, Ferguson, Watt, Wallas,
15 Adkins and Fuller is the name I remember.

16 Q. All right, and at that time what was the primary area of
17 practice of that law firm, do you recall?

18 A. Well, in some respects it was a general practice but with
19 a civil rights flavor. There was a heavy amount of employment
20 discrimination, criminal law, and some general civil litigation.

21 Q. As such did you and/or your law firm generally deal with
22 issues of racial discrimination or alleged racial discrimina-
23 tion?

24 A. Yes.

25 Q. All right. In this case, and for the record, what is the

1 race of Ronnie Wallace Long?

2 A. Black.

3 Q. What were the charges in this case, to the best of your
4 recollection?

5 A. Primary charge was rape. I don't remember what --

6 Q. All right. What was the race of the victim?

7 A. White.

8 Q. What was her approximate age? I don't mean specific but
9 generalities.

10 A. Considerable older, sixty, seventy -- I don't --

11 Q. Have you at my request reviewed some of the transcript
12 and attempted to remember some of this case from 1976?

13 A. Well, let me back up a second. I want to be clear about
14 it. I really have not reviewed the transcript except for just
15 a few minutes this morning. I didn't have a file because I'm
16 now in Raleigh. The file, to the extent that we kept a file,
17 it was the firm in Charlotte. So I think a more correct answer
18 would be I have tried to remember and I have talked with you
19 and I have talked with a former partner, Karl Adkins, but I
20 have not done, I have not gone through the transcript one
21 page at a time.

22 Q. All right. Do you recall then in 1976 hearing in this
23 case a motion regarding the racial makeup of the jury?

24 A. Yes.

25 Q. At that time were you representing or was your firm

1 representing a number of folks wherein that motion was made,
2 not specifically Ronnie Long?

3 A. Yes.

4 Q Describe how you were generally hearing that motion,
5 leading up to the Ronnie Long case in September of 1976.

6 A Well, in general we would call the officials responsible
7 for putting together the jury list. And that would include
8 the Clerk of Court, the Chair of the Jury Committee, the
9 Register of Deeds in some instances; could include a Clerk,
10 that was usually a little more difficult; could include a
11 district judge and that was equally difficult; but primarily
12 in each instance we attempted to set out the process by which
13 jurors came to be in the trial jury.

14 Q All right. In doing so, what were the issues you were
15 attempting to look for?

16 A Well, we were attempting to show a prima facie case of
17 racial discrimination, a systemic discrimination. We were
18 attempting, and I say this as a generality but I think in every
19 case, we were attempting to create an environment in which
20 prosecutors would be less likely to take blacks off the jury.
21 I'm saying there was a reason in which we hoped, but quite
22 frankly did not expect, to win on the merits; there was also
23 a tactical reason to sensitize, if you will, to put the issue
24 of race before the Court, before the prosecutor, before us
25 and our client.

1 Q Had you had any success at that prior to Ronnie Long's
2 case?

3 A I need to answer you a little bit indirectly there.
4 There was one case that my partner, James Ferguson, had had
5 a successful result at the trial level. Seems to me that was
6 Judge Long and seems to me it was Forsyth Superior. Judge
7 Long, as I recall, had quashed an entire panel. That case
8 went to the Supreme Court and got pretty rough treatment,
9 which goes back to what I said a while ago that I honestly,
10 I'm not trying to volunteer if this is not what you're looking
11 for, but I didn't really expect most of those motions to be
12 granted --

13 Q I understand.

14 A -- because I thought it was a pretty difficult burden,
15 and in the one instance where our firm had had success, what
16 seemed to me like a pretty clear case, the State Supreme Court
17 had reversed.

18 Q All right. Leading up to Ronnie Long's case, you were
19 still making these motions, correct?

20 A Yes.

21 Q Do you recall the case of State versus William Harbison,
22 Jr.?

23 A Yes.

24 MR. GROSSMAN: Your Honor, if I may, the case is
25 cited as 293 N.C. 474, 238 S.E.2d. 440. I have made a copy

1 of it, of course, it's in the Reporters; if I may mark it as
2 Exhibit 5 and approach the witness to show him.

3 THE COURT: All right.

4 Q Have you seen the Supreme Court report in this case?

5 A Yes, I was counsel of record on appeal to the Supreme
6 Court.

7 Q Were you also counsel at the trial level, or co-counsel
8 at the trial level?

9 A Co-counsel; that was a fairly unusual -- yes, I was co-
10 counsel.

11 Q What was the date of that trial, if you would refer to
12 the opinion?

13 A I don't know. If you would know I would be happy for you
14 to point me to it. I just don't see it.

15 MR. GROSSMAN: May I approach the witness, Your
16 Honor?

17 THE COURT: You may.

18 Q Okay, in reviewing that case, do you see a date of
19 trial?

20 A Yes, the opinion by Justice Huskins says the case was
21 called for trial on 30 August 1976.

22 Q And that was approximately three or four weeks before
23 the Long case, the record speaking for itself?

24 A I really can't answer; I can't argue either way. I just
25 don't remember when, the date of the Long trial.

1 Q All right. In that case I believe you asked for con-
2 tinuance to explore the jury, the makeup of the jury -- in
3 the Harbison case. Is that correct?

4 A Yes, sir, Mr. Grossman, I asked for a bunch of continu-
5 ces for a bunch of reasons in the case; we had only been in it
6 for about a week.

7 Q All right, and the Court did what?

8 A Well, I mean it was in several parts. Judge Friday
9 denied the continuance and in what was a very unusual move
10 allowed appointed counsel to stay in the case, allowed the
11 State to pay my friend in Morganton, allowed us to participate
12 as co-counsel because coming in a week or ten days before
13 trial we were certainly in no position to be lead counsel.
14 On the morning of the trial we renewed -- that was done the
15 week before. That was done the day after we got in the Harbi-
16 son case. The morning of the trial we renewed a motion to
17 postpone. We also in that instance for the first time made a
18 motion to delay to allow us to investigate.

19 Q Regarding the jury?

20 A Yes.

21 Q And that was denied also, was it not?

22 A Yes.

23 Q The Supreme Court then affirmed the denial of that
24 continuance to investigate the jury?

25 A Yes.

1 Q Subsequently in Mr. Long's case?

2 A Yes.

3 Q Now, when you came to Cabarrus County to try Ronnie Long,
4 I believe you made a motion to quash the indictment or quash
5 the jury on the same grounds regarding systematic exclusion
6 of blacks, is that correct?

7 A Generally correct; I don't remember with any precision
8 after eleven years.

9 Q All right. You did not file a written motion, to your
10 recollection?

11 A I really don't remember.

12 Q Do you recall talking to Judge Wood on the day of the
13 trial in that matter as to your intention to file the motion,
14 or to have the motion heard?

15 A No.

16 Q Do you recall making the motion on the morning of trial?

17 A Yes.

18 Q Did you talk with any of your witnesses prior to trial
19 in that matter?

20 A I don't know.

21 Q Do--you called Mr. Estus White, Clerk of Court. Do you
22 recall that?

23 A Yes.

24 Q Do you recall whether you spoke with him at any time
25 prior to trial in this case?

1 A. Well, the reason I have to hedge is I remember talking
2 to Mr. White; I don't remember if it was in this case or
3 another case. I just can't say for sure.

4 Q. Okay. Do you recall that you called Jim Bonds in the
5 case, the former Register of Deeds?

6 A. I guess.

7 Q. All right, do you --

8 A. I mean no, I don't remember it, really, but that's what
9 we would usually do.

10 Q. Do you recall whether or not you talked with Jim Bonds
11 before his testimony in the case?

12 A. No.

13 Q. Is that no you don't recall or no you did not talk with
14 him?

15 A. Don't recall.

16 Q. All right, you called the head of the jury commission,
17 James or John Robinson, Mr. Robinson. Do you recall -- is
18 that a yes?

19 A. I don't remember Mr. Robinson. I certainly don't --

20 Q. Is it your normal procedure to call the head of the
21 jury commission?

22 A. Yes.

23 Q. Would the record speak for itself as to whether you would
24 have called Mr. Robinson?

25 A. Sure.

1 Q Okay. Do you recall whether or not you ever spoke with
2 Mr. Robinson prior to hearing the motion?

3 A No.

4 Q No you do not recall or no you didn't talk to him?

5 A The question was did I recall and the answer is no.

6 Q All right. Do you recall in that case that there arose
7 a question as to names being stricken off the master list for
8 the jury pool?

9 A No.

10 Q Do you recall whether or not in that case -- the Long
11 case, I'm speaking of -- there was a question as to the Sheriff
12 striking names from the master list under Mr. Robinson's
13 direction, or at Mr. Robinson's request?

14 A No.

15 Q Do you recall whether you subpoenaed the master list?

16 A No, sir.

17 Q Do you recall whether or not you called a Deborah
18 Ballington? I believe you called her a different name back
19 then, D.J. Do you recall that?

20 A I certainly remember that she was a secretary-paralegal
21 in the office. I could not tell you under oath what we asked
22 her to do on that day in this case, eleven years ago.

23 MR. GROSSMAN: May I approach the witness, please?

24 THE COURT: You may.

25 Q Mr. Fuller, directing your attention to page 36 of

1 Defendant's Exhibit 1, if you would see if that might refresh
2 your memory. Does that refresh your memory as to calling one
3 Deborah Ballington as a witness?

4 A. No.

5 Q. It does not?

6 A. I'm not trying to be uncooperative. I mean obviously she
7 was called; I certainly know who she was; but if you're asking
8 me do I have now an independent recollection of what she did
9 in this case eleven years ago, I just have to truthfully say
10 no. Whatever it says, it says.

11 Q. All right, whatever it says the record would reflect
12 what you did back in 1976?

13 A. We did the appeal, so I'm sure we agreed that the
14 transcript and the record were correct because we filed it in
15 the Supreme Court.

16 Q. Do you recall how many jurors there were in the jury pool
17 in 1976 on the Ronnie Long case?

18 A. No.

19 Q. Do you recall whether or not you spoke with Judge Wood
20 regarding the number of blacks in the jury pool?

21 A. No.

22 Q. All right. Do you recall whether they had to bring in
23 extra witnesses -- or rather, excuse me, extra jurors?

24 A. No.

25 Q. All right. You do recall, however, making the motion on

1 the day of trial?

2 A Well, no. To be candid, I recall making the motion, and
3 I have heard from you or somebody that it was on the day of
4 trial. So I won't argue with that. I just --

5 Q Do you recall whether or not you attempted to secure
6 statistical proof as to the percentage of blacks in the
7 community?

8 A I'd have to tell you that's what we usually did.

9 Q All right. Again --

10 A With census track data.

11 Q All right, do you recall whether or not you reviewed
12 prior jury lists to determine prior jury pools and their
13 percentages of racial disparity, if any?

14 A No, but probably not.

15 Q All right.

16 A In general, that was just not a very successful route.
17 You can cut me off if I'm answering something you're not
18 asking.

19 Q No, that's fine.

20 A But whether in this case or another one, a prior jury
21 list would have a hundred and fifty names on it, say, and
22 other than going around and knocking on a hundred and fifty
23 doors, which didn't seem to be pragmatically possible, or
24 using some kind of sophisticated census track racial composi-
25 tion which was also difficult, to say the least, it just

1 wasn't very helpful to me to have a prior jury list with a
2 hundred and fifty names on it, or whatever the names were,
3 because there was no racial identification as I remember.

4 Q All right, do you remember the average number of the jury
5 pools in Cabarrus County in '75, '76, '74?

6 A No, sir.

7 Q Okay, you don't know if it was a hundred and fifty or
8 forty?

9 A Correct.

10 Q All right. To change the subject, Mr. Fuller, are you
11 familiar with Cabarrus County, North Carolina, or were you in
12 1976 familiar with Cabarrus County, North Carolina?

13 A Well, generally. I mean I practiced law in Charlotte
14 and we handled a few cases over here, but --

15 Q Did you handle any cases in Cabarrus County of the
16 severity of State versus Long?

17 A Yeah.

18 Q How many, do you recall?

19 A No. I remember one murder case that I think ended up
20 being a plea, not a trial. No, I would say that the firm had
21 several, and as far as I can remember I was involved in two,
22 this and the one I --

23 Q Are you familiar generally, or were you familiar in 1976
24 generally with the racial makeup of Cabarrus County?

25 A No.

Jim Fuller - Direct

17

1 Q Did you investigate the racial makeup of Cabarrus County
2 prior to the State versus Long case?

3 A I'm not sure, but probably.

4 Q This was a case of a black man, young black man, charged
5 with the rape and burglary of a middle-aged white woman,
6 correct?

7 A Correct.

8 Q Was there, pretrial, some feeling within the community
9 regarding Ronnie Long? Let me rephrase that. Was there
10 prior to trial a defense network set up for Ronnie Long, to
11 your knowledge?

12 A I'm not sure what a defense network is. There were a lot
13 of people who had an outspoken interest that on occasion they
14 shared with us.

15 Q All right.

16 A It was a committee, as I recall, the Ronnie Long
17 Committee.

18 Q Were these people to your knowledge active in the
19 community pretrial?

20 A It seems to me they were not all from Concord, but I know
21 there were some people from Concord who lived in the black
22 community here who were active in civil rights issues and
23 who were very concerned about this case.

24 Q All right. Describe, if you would, to your knowledge the
25 racial makeup of that committee; that is, was it predominantly

1 black, predominantly white, or --

2 A. Best I remember it was predominantly black but mixed.

3 Q. When you came to the courthouse in September 1976 for
4 this trial, describe the atmosphere around the courthouse
5 to your recollection.

6 A. It was very tense and racially polarized.

7 Q. Describe the crowd, if that's a correct term, around the
8 courthouse.

9 A. I'm not sure I understand how that --

10 Q. Was it a predominantly black crowd, predominantly white
11 crowd?

12 A. It was split literally in half.

13 Q. All right.

14 A. With half sitting on the prosecution side and half sitting
15 on the defense side, and the white folks were on the prosecu-
16 tor's side and the black folks, with a few, sort of a salt and
17 pepper sprinkling of whites who were in the group of
18 supporters, on our side.

19 Q. Were there demonstrations going on or not at the time
20 the trial began?

21 A. I don't remember any; I have heard that there were but
22 it just doesn't ring a bell with me today. There were
23 demonstrations afterwards that I remember but not before.

24 Q. All right. Were there -- well, perhaps demonstrations
25 is the wrong word. Were there supporters marching around the

1 courthouse for Ronnie Long at that time?

2 A. I really don't remember.

3 Q. Were there folks -- strike that. Was there a crowd
4 in the courtroom at that time; was the courtroom crowded?

5 A. Yes, sir. I meant to say a minute ago -- what I was
6 describing in the sense of the two groups was in the courtroom
7 and as best I remember it was pretty well packed.

8 Q. Standing room only, to your recollection?

9 A. I just don't remember.

10 Q. Do you recall whether it was necessary to be searched
11 to even enter the courtroom?

12 A. No.

13 Q. You don't recall?

14 A. Correct.

15 Q. Did you or Mr. Adkins investigate in the community the
16 feelings about Ronnie Long prior to trial?

17 A. Well, I mean that's a little hard to get a clear handle
18 on, but yes, in general. I mean we read newspaper articles,
19 we talked to a lot of people.

20 Q. Did you consider the issue of change of venue?

21 A. Yes.

22 Q. Did you file a written motion to change the venue?

23 A. I don't remember.

24 Q. Did you make any oral motion for change of venue?

25 A. I don't remember.

1 Q Do you recall whether a motion for change of venue was
2 ever made?

3 A No.

4 Q You don't recall?

5 A I do not recall if we made a motion; I don't believe so.

6 Q All right, I believe you said you did discuss it. Do you
7 recall what you were discussing about the issue?

8 A Yes. I remember discussing it with my partner, Karl
9 Adkins. I specifically remember discussing it with some
10 members of that committee, whatever the committee's official
11 name was. And I believe we discussed it with the family more
12 in the sense of explaining why we were not going to file a
13 motion for change of venue.

14 Q All right.

15 A The considerations were that we thought that it would be
16 likely if we were able to sustain the motion that the case
17 would go to Salisbury. I had worked on an employment discrim-
18 ination case against Cannon Mills and I, as I remember one of
19 the bigger plants was in Rowan County. So as we looked ahead
20 and considered the things that might happen, one of them was
21 to go to Salisbury -- I'm going to be really candid now -- I
22 grew up in Salisbury and I happened to know that there was
23 also some pretty heavy Klan activity over there. As I recall,
24 the former Grand Dragon used to live down at China Grove or
25 one of those little towns around there. And our thought was

1 we were getting out of the frying pan into the fire if that
2 happened, and to some extent the same was true if we ended up
3 in Monroe. I guess what I'm saying is, as we considered the
4 options, we couldn't see that things were likely to get any
5 better. We had no reason that I'm aware of, that I was aware
6 of, that we could go to Charlotte or Raleigh or someplace where
7 the issues would be more neutralized, and we thought it was
8 important that Mr. Long and his family have support. I don't
9 know how many of the supporters could have gone to Monroe or
10 Southern Pines or somewhere else in the district. We assumed
11 if it was changed it would be within the judicial district
12 somewhere.

13 Q You made reference to Monroe.

14 A Yes.

15 Q Do you know what the judicial district was in 1976?

16 A I don't remember. As I recall, it was my assumption,
17 and I can't tell you now whether this was based on research
18 or just understanding, was that a judge would look first to
19 contiguous counties; secondly he would look to other districts
20 within -- would look at other counties within the district;
21 would then look to other geographically-close districts; and
22 all those things together made us think that Rowan, Union --
23 what's the railroad county south where Hamlet is -- anyway,
24 that there were a group of counties where it would be likely
25 to end up, and in our judgment the racial climate would not

1 be any better, Mr. Long would be more isolated, if you will.

2 Q You did not, however, make a motion trying to set out
3 your reasons for why it should not go to a particular county,
4 did you?

5 A I really don't remember making any motion at all.

6 Q All right.

7 A I'm not saying that I did or didn't; I'm just saying
8 that we discussed that question and I could not tell you
9 whether we got the right or the wrong answer, but that was
10 the process that we used to get there.

11 Q In doing so, did you acknowledge, as you called it, the
12 racial polarity in this case?

13 A You mean in our consideration?

14 Q Yes.

15 A Certainly. Also, I think that that's not always -- I
16 mean that's something that we all wished was not there, but
17 it doesn't always act against the defendant, particularly
18 if there are blacks on the jury. And in this instance I think
19 there was a sense on our part that you kind of had, in one
20 sense a giant corporation, and all the powers on one side,
21 and him on the other; sometimes that can appeal to a jury.

22 Q Coming to that, sir, the victim in this case we have
23 talked about a little bit. Also, did she have some connection,
24 to your recollection, to Cannon Mills?

25 A That was my understanding, but I don't remember now what

1 it was.

2 Q As such, did you consider -- well, strike that. Do you
3 recall whether or not she was married to a former officer at
4 Cannon Mills?

5 A Best I can do is say that sounds sort of right. And
6 again, Mr. Grossman, I'm not trying to be evasive; I just
7 don't -- I guess I have decided there has been more water
8 under this dam than I might have guessed. A lot of things
9 have happened in eleven years, and I just really don't remem-
10 ber a lot of things in this case. I'm not trying to be un-
11 cooperative, either with you or Mr. Roberts.

12 Q Did you participate in the motion to suppress in this
13 case?

14 A I did the case as equal co-counsel with my partner, Karl
15 Adkins, so in that sense I participated in everything, as did
16 he. I don't remember who actually conducted the hearing or
17 exactly what took place.

18 Q All right. Do you recall whether or not you interviewed
19 witnesses prior to trial regarding the motion to suppress?

20 A I think so.

21 Q Beg your pardon?

22 A I think so. I know we talked to Mr. Long. Seems to me
23 we talked to some police officers that Mr. Roberts made avail-
24 able over in the jail.

25 Q At some time?

1 A. I can't tell you when. Here's my best recollection, and
2 I know I'm under oath, but I have to say I really can't swear
3 to this. My best recollection is we went to Mr. Roberts and
4 said, "Here's what we need to do, we need to talk to this
5 person and this person," and as I recall he said not only fine
6 but he would sort of set it up. I think he made the call.

7 Q. How old was Ronnie Wallace Long at the time of this trial,
8 if you recall?

9 A. Young, but I don't remember -- twenty?

10 Q. All right. Do you recall what his education was?

11 A. No.

12 Q. Do you recall how he got to the police station that night?

13 A. No.

14 Q. All right. Did you at any time consider a motion regard-
15 ing blacks on the grand jury?

16 A. No.

17 Q. Did you at any time consider a motion regarding a black
18 grand jury foreman or lack thereof?

19 A. No.

20 Q. Were you familiar with the body of law regarding dis-
21 crimination of blacks on grand juries, similar law to petit
22 juries?

23 A. I can't say with any clarity what I was familiar with
24 that long ago.

25 Q. All right.

1 A I guess in general; our firm did a lot of cases involving
2 racial discrimination. I don't remember one involving a grand
3 jury. I am comfortable that we did not seriously consider
4 one in this case. Beyond that I can't tell you.

5 Q Is it a fair statement that your firm in general, and
6 you and Mr. -- well, you can't speak for Mr. Adkins -- and
7 you in particular, kept up with discrimination law in 1976?

8 A Certainly tried.

9 Q Is it a fair statement, Mr. Fuller, to say that it was
10 standard to prepare a case before trial in 1976?

11 A Or any other time, yes.

12 Q Is it a fair statement to say that when you make a motion,
13 or made a motion in 1976, that you would prepare it prior to
14 the hearing?

15 A Sure.

16 Q Is it fair to say that that was a general standard in
17 this area at that time?

18 A I would be uncomfortable saying what the standards were
19 in this area, although I think it would be standard in any
20 part of the state and it was certainly standard in our office.

21 Q All right.

22 MR. GROSSMAN: May I have a moment, Your Honor?

23 THE COURT: Yes, sir.

24 MR. GROSSMAN: No further of this witness, Your
25 Honor.

1 THE COURT: Mr. Roberts.

2 CROSS EXAMINATION BY MR. ROBERTS:

3 Q Mr. Fuller, at the time of this trial I think that the
4 firm of which you were a partner was commonly referred to as
5 the Chambers Firm?

6 A Yes, sir.

7 Q Headed by Julius Chambers?

8 A Correct.

9 Q And essentially your field of expertise or your reputa-
10 tion in this state was civil rights, racial discrimination and
11 matters of that nature, would that be fair to say?

12 A Yes, sir.

13 Q And every member of the firm was indoctrinated to those
14 purposes by nature that associated with your firm; they knew
15 that those were the endeavors of that firm?

16 A I think -- let me just say it a slightly different way.
17 I don't think anybody would apply to that firm who didn't come
18 with a commitment to deal with issues of racial inequality
19 and, I mean everything from handling an auto case where we
20 were concerned that injured black people recover the same
21 types of money that injured white people did; the notion of
22 racial disparity, discrimination, really covered everything we
23 did from handling small businesses to handling major employ-
24 ment discrimination and criminal cases.

25 Q And your reputation for those matters was well known

1 throughout the state?

2 A. I wouldn't want to address mine, but the firm's certainly
3 was.

4 Q. I'm saying the firm, too.

5 A. Yes, sir.

6 Q. And your firm was privately employed by the family of
7 the defendant, Ronnie Wallace Long?

8 A. Yes.

9 Q. Now, Mr. Fuller, Mr. Grossman referred to atmosphere
10 around the courthouse. There were supporters of Mr. Long who
11 were picketing or otherwise doing something outside the court-
12 house while we were picking the jury, were there not?

13 A. I really don't remember, Mr. Roberts. I understood from
14 Karl that was correct.

15 Q. All right, sir.

16 A. But I just don't remember one way or the other.

17 Q. All right, sir. Now, do you recall, Mr. Fuller, whether
18 or not there were black jurors on the panel?

19 A. There were.

20 Q. Do you recall whether any were called to the actual jury
21 box?

22 A. My best memory is that there were four blacks called and
23 seated.

24 Q. I believe the defense excused them, did they not?

25 A. You mean us?

1 Q Yes.

2 A I don't think so.

3 Q Do you not -- whether you recall or not, Mr. Fuller, I
4 can understand in the passing of eleven years -- do you
5 recall an elderly black man who had worked at Cannon Mills
6 for about forty years making a statement, "If they bring him
7 in the courtroom charged, he's guilty"? He made that state-
8 ment, he was excused, and others.

9 A I really don't.

10 Q And I think the State had to excuse two jurors because
11 they lived in the same block that the defendant and his family
12 lived; do you have any recollection of that?

13 A I remember one juror in particular, Mr. Roberts, because
14 I remember just really sweating blood trying to get a for-cause
15 challenge in hopes that we could get a black person into the
16 jury, and this is my characterization, not Judge Wood's, but
17 my sense of what he said was, "You all have fought so long and
18 hard on this, I ain't sure you are entitled to it, but I'm
19 going to give you the challenge because if you will quit." I
20 mean we just went on and on and on. And he allowed the
21 challenge because the black woman, as I remember, came into
22 the box and my recollection is that you asked a few questions
23 that basically said, "You'd rather not sit on this jury,
24 wouldn't you?" and she grabbed at the chance and was gone.
25 And I remember kind of feeling deflated. That's the only

1 specific recollection I have of the three or four black people
2 who actually took a seat.

3 Q All right, sir. Now, Mr. Fuller, I believe, as I under-
4 stand your testimony, that it was a well thought out type of
5 strategy that you, in fact, did not want a change of venue,
6 based on all attendant circumstances and options that you
7 were faced with?

8 A Mr. Roberts, it was a carefully considered; I would not
9 make a judgment as to whether it was right or wrong, I
10 think somebody else has to do that. We did what we thought
11 was in Mr. Long's best interest. There was no other consider-
12 ation.

13 Q The suggestion in the motion here is that that decision
14 was made the day the trial started, but what I'm asking you,
15 that was a well thought out thing about your alternatives of
16 going to Rowan County which had all the Klan activity,
17 possibly Albemarle, and you knew the track records of these
18 counties, and it was a determined strategy that your client,
19 with his local support, would be better off in Cabarrus County
20 than the alternatives that you could consider?

21 A Let me take that in pieces.

22 Q Okay.

23 A Actually, I have never seen the petition in this case
24 so I can't respond to that. I can tell you that whatever we
25 did in court on the day of trial, I am comfortable that we

1 didn't just -- well, we didn't wake up at 7:30 on the morning
2 of trial and say, "Gosh, here's what we're going to do." And
3 particularly with regard to the chance of venue. That was
4 something we discussed over a long period of time and a
5 decision that evolved. It wasn't an instant decision on the
6 morning of trial nor two weeks before trial. It was our
7 determination, given the totality of the situation, that Mr.
8 Long, given some unattractive options, that trial here was
9 probably best for him. And as I said, I don't know if that
10 was right or wrong; I'm telling you that we did it with his
11 best interests and for no other consideration.

12 Q But it was done after deliberation and thought?

13 A Yes.

14 Q All right, sir. Now, Mr. Fuller, at some time, do you
15 recall, sir, being invited to speak to the District Attorneys
16 Association in Chapel Hill at one of our educational con-
17 ferences?

18 A I do, indeed.

19 Q Do you recall, sir, approximately when that was?

20 A No, it's downstream a while but I don't remember exactly.

21 Q All right, do you recall the subject of the panel that
22 you were on, or were you a primary speaker? I can't recall.

23 A I think I was primary speaker and it had to do with pre-
24 trial motions in a capital or life criminal case.

25 Q All right, sir. And do you recall being generally

1 harrassed by the district attorneys?

2 A. I recall being ambushed by two in particular who came up
3 later and smiled and said "no hard feelings," and I smiled
4 back at them; I didn't say anything.

5 Q. All right, sir.

6 A. It was a pleasant environment; it was certainly sort
7 of sharing the wares with the adversaries, if you will.

8 Q. All right, sir. And do you recall that in conclusion in
9 your parting shots that you made a very serious plea to the
10 district attorneys to be fair with regards to racial equality
11 and so forth in the courtroom?

12 A. I do remember that.

13 Q. And do you also recall a district attorney insinuating
14 to you that you claimed that no one had ever been treated
15 fairly to your clients in the state of North Carolina, and
16 more importantly do you remember what you told them about
17 Cabarrus County?

18 A. I did not until right this minute because you and I have
19 really not talked about this.

20 Q. That's right.

21 A. As I remember it, it was Don Jacobs from Goldsboro who
22 basically wanted to know if I thought everybody I had ever
23 represented had been unfairly treated, and I can't quote this,
24 Mr. Roberts, but I believe I told him I thought you had been
25 imminently fair in every case that we had had with you. I was

1 not addressing any particular case, but as I said to Mr.
2 Grossman a minute ago, a series of cases with Chambers and
3 Ferguson and me and Karl and we were involved in every case.
4 I may be rambling more than you're asking for now, but what
5 I'm saying is that if Ferguson did a case, we met about it.
6 I may never appear in the courtroom, but we tried to share
7 ideas and help each other. When Karl and I did the Long case,
8 I don't have a distinct recollection but I'm as sure as I sit
9 here that Ferguson and Chambers and I don't know, whoever, and
10 everybody in the firm did what they could to help us. I
11 remember the plea or the admonition to the district attorneys;
12 I remember telling them that I thought they wouldn't lose,
13 number one, they wouldn't lose convictions, that black people
14 would be fair, and that it didn't make sense to take blacks
15 off the jury; if people were guilty, they would be convicted.
16 And I remember saying secondly that in the sense of repre-
17 senting the whole community and having verdicts that the
18 whole community would accept, it would be very helpful to the
19 cause of civil rights and human rights if black people, as
20 well as whites, sit on the jury. But I do remember telling
21 him that you were fair and I still say that, certainly with
22 regards to any dealings that you and I had.

23 MR. ROBERTS: All right, sir. Thank you very much,
24 Mr. Fuller.

25 THE COURT: Anything further, Mr. Roberts?

1 Mr. Roberts, anything further from this witness?

2 MR. ROBERTS: No, Your Honor.

3 THE COURT: All right, sir. Mr. Grossman, anything
4 further?

5 MR. GROSSMAN: No, sir.

6 MR. ROBERTS: Your Honor, Mr. Fuller has a commit-
7 ment in Durham and with defense's permission I would like to
8 excuse him permanently.

9 MR. FULLER: I would appreciate it.

10 THE COURT: May he be excused, Mr. Grossman?

11 MR. GROSSMAN: That's fine with me, Judge.

12 THE COURT: Thank you, Mr. Fuller.

13 (The witness is excused.)

14 ERWIN SPAINHOUR, being duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. GROSSMAN:

16 Q What's your name, please?

17 A Erwin Spainhour.

18 Q Mr. Spainhour, do you practice law here in Cabarrus
19 County?

20 A Yes, I do.

21 Q For how long have you practiced law in Cabarrus County?

22 A Since September of 1970.

23 Q Do you recall the Ronnie Long trial?

24 A Yes.

25 Q Did you watch the trial?

Erwin Spainhour - Direct

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1 A I was in and out of the courthouse; I don't recall having
2 the time to sit around and watch more than just a few minutes
3 of it at a time.

4 Q You weren't here during the course of the trial sitting
5 in the courtroom watching?

6 A No, but I was in and out of the courthouse all the time.

7 Q For a period of six years prior to the Ronnie Long
8 trial, did you practice in court in Cabarrus County regularly?

9 A Yes.

10 Q As such, were you familiar with the standards of
11 attorneys in Cabarrus County toward preparing motions prior
12 to court?

13 A Yes.

14 Q Was it a general standard or not in Cabarrus County to
15 prepare a motion prior to court and investigate it before pre-
16 senting it in court?

17 A Yes, it was.

18 Q Thank you.

19 THE COURT: Mr. Roberts, do you want to ask anything?

20 MR. ROBERTS: Yes, Your Honor.

21 CROSS EXAMINATION BY MR. ROBERTS:

22 Q Mr. Spainhour, do you know the prior witness, James
23 Fuller?

24 A Yes, I do.

25 Q How long have you known him?

1 A Since he and I were freshmen together at Davidson College
2 in 1960.

3 Q And have you kept in general contact with Mr. Fuller over
4 the years?

5 A On and off over the years we have run into each other,
6 yes.

7 Q And do you know Karl Adkins, the co-counsel in this case?

8 A Yes, I do.

9 Q And how long have you known Mr. Adkins?

10 A I've known him for several years. We would run into each
11 other in court from time to time. I remember one time in
12 Kannapolis we happened to run into each other. But I have
13 known him well for the last two or three years.

14 Q Do you, Mr. Spainhour, hold any position with the North
15 Carolina State Bar?

16 A Yes, I do.

17 Q And what is that, sir?

18 A I'm the Counselor for Judicial District 19-A, represent-
19 ing Rowan and Cabarrus counties on the North Carolina State
20 Bar Council.

21 Q Are you familiar with any position that Mr. Adkins may
22 hold with the North Carolina State Bar?

23 A Yes. He also is Counselor from the Mecklenburg District,
24 one of five, I believe, from Mecklenburg County, and Mr.
25 Adkins and I sit on several committees together, including the

1 grievance committee.

2 Q And in 1976 when this case was tried, were you generally
3 familiar with the firm referred to as the Chambers firm?

4 A Yes, I was.

5 Q Do you have an opinion, Mr. Spainhour, as to the reputa-
6 tion of that firm with regard to individual rights?

7 A Yes, I do.

8 Q And what is that opinion, sir?

9 A An excellent law firm.

10 Q And do you have an opinion, sir, as to the general
11 reputation of Mr. Fuller with regards to the practice of law?

12 A Yes, I do.

13 Q And what is that?

14 A He's an excellent trial lawyer.

15 Q And do you have an opinion as to the general quality of
16 Mr. Karl Adkins as a practicing attorney?

17 A Yes, I do.

18 Q What is that?

19 A He also is known as an excellent trial lawyer.

20 MR. ROBERTS: That's all the questions I have, Your
21 Honor.

22 THE COURT: You may step down, Mr. Spainhour.

23 MR. SPAINHOUR: Thank you.

24 THE COURT: You may be excused.

25 (The witness leaves the stand.)

1 KARL ADKINS, being duly sworn, testified as follows:

2 DIRECT EXAMINATION BY MR. GROSSMAN:

3 Q Your name, please, sir?

4 A My name is Karl Adkins.

5 Q Mr. Adkins, are you licensed as a practicing attorney in
6 the State of North Carolina?

7 A Yes, I am.

8 Q When did you receive your license?

9 A I received my North Carolina license in 1972.

10 Q Were you licensed in another state prior to that?

11 A In Michigan.

12 Q All right. How long have you practiced law?

13 A Since 1972.

14 Q All right, sir. You received Michigan the same year?

15 A I clerked for a federal judge for a year in Michigan.

16 Q All right. In 1976 were you associated with a law firm
17 in Mecklenburg County?

18 A I was.

19 Q What law firm was that, sir?

20 A The Chambers law firm.

21 Q The one we have referred to earlier this morning?

22 A Yes.

23 Q And as a part of your duties, were you active in the
24 representation of Ronnie Wallace Long in a trial in September
25 of 1976 in Cabarrus County?

1 A Yes, sir.

2 Q What was your position related to Ronnie Long?

3 A Jim Fuller and I were co-counsel.

4 Q All right. Do you recall when this trial was?

5 A I know it was in 1976, and if you say September, that
6 sounds about right.

7 Q All right. When did your firm, if you recall, and your-
8 self in particular, become involved with this trial or this
9 warrant or indictment or charge?

10 A I don't remember the date; sometime, obviously, before
11 September of '76.

12 Q Do you recall approximately how far before September of
13 '76 your firm became involved?

14 A I don't have any independent recollection of that. There
15 is a note somewhere in the file of where, I think, Chambers --
16 my law partner, Julius Chambers -- talked with Mr. Long.

17 Q Was that Mr. Ike Long?

18 A Right.

19 Q All right, sir.

20 A But I don't remember the date.

21 Q For the record, who is Mr. Ike Long?

22 A The father of Ronnie Long.

23 Q Do you recall when you all talked with Ronnie Long for
24 the first time?

25 A The date, no.

1 Q Do you recall approximately how far before September of
2 '76 you talked with Ronnie Long for the first time?

3 A I don't remember.

4 Q Did you at any time, to your recollection -- strike that
5 and let me go back. Have you reviewed what is left of your
6 file?

7 A I have looked over it, yes.

8 Q All right, and has that in anyway refreshed your recol-
9 lection towards this case or have you been able to recall much
10 about this case?

11 A I don't recall much in the way of detail; the file has
12 been helpful on a couple of questions you asked me about.

13 Q Regarding the search issue?

14 A Yes, sir. I reviewed the brief that we filed in the
15 North Carolina Supreme Court.

16 Q All right, do you have any recollection, either indepen-
17 dently or after refreshing your recollection from your file,
18 as to aspects regarding the jury selection and the motion we
19 have talked about with Mr. Fuller?

20 A What has been testified to sounded pretty much the way
21 I recall it.

22 Q As to the standard practice of what's been called the
23 Chambers law firm, do you agree that the general rule was to
24 put up that list of witnesses Mr. Fuller testified to?

25 A Best of my recollection, yes.

1 Q Did you participate in motions of that sort in other
2 trials?

3 A I'm sure I have but I couldn't tell you right now.

4 Q Prior to '76?

5 A Yes.

6 Q All right. Do you recall whether you discussed with
7 Mr. Fuller that motion regarding Ronnie Wallace Long?

8 A That motion?

9 Q Regarding the systematic exclusion of jurors or the
10 racial disparity in the jury pool?

11 A I don't recall any specifics; I feel sure we talked about
12 it.

13 Q Do you recall whether there was ever any investigation
14 undertaken to determine percentages of blacks in the jury pool
15 in Cabarrus County?

16 A No, I don't recall.

17 Q You don't recall. That is not to say that it was or it
18 was not?

19 A I just don't remember.

20 Q Do you recall whether or not there was any pretrial dis-
21 cussion with Mr. Robinson who testified at the trial?

22 A I don't remember.

23 Q Do you recall whether there was any pretrial discussion
24 with Mr. White who testified at the trial?

25 A Don't remember.

1 Q Do you recall whether there was any pretrial discussion
2 with Mr. Bonds who testified at the trial?

3 A I don't remember that either.

4 Q Do you recall whether there was any pretrial discussion
5 or investigation whatsoever of the motion to quash the indict-
6 ment due to systematic exclusion of jurors?

7 A I don't recall.

8 Q All right. Do you recall reading a transcript of this
9 case at sometime in the past?

10 A Yeah, when I prepared the brief.

11 Q You did prepare the appeal?

12 A I think that I did; I signed it.

13 Q All right. Let me --

14 MR. GROSSMAN: Your Honor, I have a copy of
15 defendant appellant's brief I'd like to mark as Exhibit 6.
16 For the record, I'm not sure I introduced Exhibit 5. If I
17 might introduce that which is the State versus Harbison. Let
18 me approach the witness, if the Court please, on Exhibit 6.

19 Q I hand you, Mr. Adkins, a copy of what I have marked as
20 Defendant's Exhibit 6.

21 MR. GROSSMAN: I'd introduce Defendant's Exhibit 5.

22 Q Could you check the last page to see if that is your
23 signature? Maybe it isn't on there.

24 A Well, it's typed; my name is typed on there.

25 Q To the best of your recollection in reviewing your records,

1 did you file the brief in State versus Long and argue the
2 appeal?

3 A. I'm sure I caused it to be filed; Mr. Fuller and I were
4 having a debate about who argued it. I don't independently
5 remember arguing it, but I filed the brief.

6 Q. Let me show you, if I might, a copy of the opinion in
7 State versus Long, which I will not introduce but just show
8 it, if that's all right.

9 A. If it says I did, I don't have any doubt that I did.

10 Q. Well, for the record, if I might approach the witness,
11 State versus Long, it says Karl Adkins for the defendant
12 appellant. Do you agree, then, that you appeared for Mr.
13 Long in the appeal?

14 A. Yes.

15 Q. All right. As such, and in preparing that brief, did you
16 at any time include in your issues which are in your brief
17 the issue of systematic exclusion of black jurors as argued
18 at the trial level?

19 A. That is not an issue that is listed under the questions
20 presented.

21 Q. All right, do you recall why that issue was not included?

22 A. No.

23 Q. Are you familiar with Cabarrus County, North Carolina?

24 A. Yes, I have been over there several times.

25 Q. Were you familiar with Cabarrus County, North Carolina in

1 1976?

2 A. Yes, probably more then than I am now.

3 Q. All right. As such, had you tried many cases in
4 Cabarrus County, North Carolina?

5 A. In 1976?

6 Q. Yes, sir.

7 A. I had been involved in some cases, I couldn't tell you
8 the number. And I think -- well, I have been involved in
9 some cases but I don't know how many.

10 Q. All right. Prior to your discussions with Mr. Fuller, I
11 believe within the last twenty-four hours, did you have any
12 independent recollection of the question of change of venue
13 in the Long case?

14 A. No.

15 Q. Has he refreshed your recollection?

16 A. Yes, he did.

17 Q. I believe you would corroborate what he testified to, is
18 that correct?

19 A. I would.

20 Q. Now, for the record, what is your race, Mr. Adkins?

21 A. I'm black.

22 Q. Did you review the issue, the potential racial issue, in
23 State versus Long prior to the trial in the case?

24 A. Yes. We were very concerned about that because, first
25 of all, it was a black man charged with raping a white woman

1 in a small town that had a reputation of being run by Cannon
2 Mills. There was a lot of concern in the community, polari-
3 zation.

4 Q Would you reflect on that polarization for a minute?
5 I believe Mr. Fuller testified to the same thing.

6 A Well, there was a group of people who felt that Ronnie
7 Long had been unjustly charged and felt that the quality of
8 justice in this county in general was not what it should be,
9 and that this case was but another example of that racist
10 system.

11 Q Was that position or statement or feeling made general
12 to the public by that group of people?

13 A I don't know how general it was, but that was certainly
14 discussed.

15 Q All right. Were there rallies on behalf of Mr. Long
16 prior to trial, to your knowledge?

17 A I recall there were some rallies, yes.

18 Q All right, and was that general feeling discussed at those
19 rallies?

20 A I think that it was. I was not present at the rallies.

21 Q Were those rallies publicized, to the best of your
22 knowledge?

23 A I think there were some articles in the newspapers.

24 Q Did you discuss at anytime pretrial, or interview wit-
25 nesses, regarding the issue of potential change of venue?

1 A. Did I, personally?

2 Q Yes.

3 A. I don't recall that, but I don't think I did.

4 Q Do you recall whether anybody in your firm did, either
5 under your direction or under Mr. Fuller's direction?

6 A. I don't remember.

7 Q All right. Now, you made reference to Cannon Mills.
8 What was the relationship to this case of Cannon Mills?

9 A. The victim in the case was the widow of a former Cannon
10 Mills executive.

11 Q As such, what was your concern about that?

12 A. That because of the real or perceived feeling that Cannon
13 Mills ran this county, that it would be very difficult to
14 keep those kinds of feelings out of this courtroom.

15 Q Would this case not normally in your practice, Mr. Adkins,
16 have called for at least a motion to consider change of venue?

17 A. I think given the limitations of where we were likely to
18 end up, that we -- we certainly talked about it, and I think
19 we talked with Ronnie about it, and --

20 Q I'm not asking you what Ron said.

21 A. No, I'm not going to tell you what he said because I
22 don't remember what he said, but there was a lot of discus-
23 sion within our office about where we would likely end up,
24 where we would be better off; it wasn't likely that we
25 would end up in Charlotte.

1 Q You were trying to go to Charlotte if you could?

2 A No, I'm saying it was unlikely that we would, and the
3 alternatives that Fuller talked about were not very appealing
4 either.

5 Q Were you familiar with what counties encompassed Judicial
6 District 19 in 1976?

7 A I'm sure I was in 1976 but I can't tell you now what they
8 are.

9 Q All right, you all were concerned about Salisbury, Rowan
10 County?

11 A Rowan County and seems to me maybe Albemarle.

12 Q Albemarle, which is Stanly County, for the record?

13 A Right.

14 Q And Monroe?

15 A I don't specifically recall Monroe but that might have
16 been.

17 Q Did you ever consider Randolph or Montgomery counties?

18 A We considered all the counties that we felt like the
19 case might get moved to; now whether Randolph and Montgomery
20 were in that group or not, I don't remember.

21 Q Did you handle most of the search and seizure issue at
22 the trial? I believe you reviewed some of that prior to --

23 A I believe I did.

24 Q Did you at any time discuss the case with David Taylor?
25 Do you recall?

1 A. I don't remember. Who is David Taylor?

2 Q. Did you at any time discuss the case with any of the
3 detectives in the case prior to the trial?

4 A. I have been refreshed that we did talk with some officers,
5 but I couldn't tell you specifically which ones.

6 Q. You don't remember whether they were the officers who
7 testified at trial or not, do you?

8 A. I know we would not have talked to officers who were not
9 involved in the investigation.

10 Q. Did you ever at any time seek discovery from the State
11 on the issue of the search?

12 A. I don't remember.

13 Q. Did you at any time -- do you recall whether you sought
14 discovery as to certain nontestimonial items which were taken
15 off Mr. Long?

16 A. I just don't remember whether there were any formal
17 motions.

18 Q. All right. In reviewing the -- you reviewed the record
19 on appeal, I believe, did you not? Or some parts of it?

20 A. I looked at parts of it, right.

21 Q. Okay. Do you recall why you did not argue totality of
22 the circumstances on the issue of consent?

23 A. No.

24 Q. Is that, to your knowledge, an issue on the issue of
25 consent search, totality of the defendant's circumstances?

1 A. I believe it is.

2 Q. All right. Would you agree, sir, that it is appropriate
3 and standard to prepare motions prior to presenting them in
4 the courtroom, as a rule?

5 A. Prepare? I would not argue a motion that I had not
6 prepared, if that's what you're asking.

7 Q. Would you agree that it is appropriate to investigate
8 motions and facts surrounding them prior to making them in
9 the courtroom?

10 A. Yes, sir.

11 Q. Do you recall whether or not any issues on the jury list
12 were subpoenaed? Was the jury list subpoenaed?

13 A. I don't remember.

14 Q. Do you recall whether or not the master list ever made
15 it to the courtroom?

16 A. I don't remember.

17 Q. Do you recall whether or not -- well, would you agree,
18 having filed the brief, that the transcript would speak for
19 itself?

20 A. Yes, whatever happened happened; I just don't remember
21 after eleven years.

22 Q. All right. Thank you.

23 THE COURT: Mr. Roberts.

24 CROSS EXAMINATION BY MR. ROBERTS:

25 Q. Mr. Adkins, you were asked about discovery. Now, the

1 State's discovery laws had not been enacted at the time this
2 case was tried, had they been, sir?

3 A. To the best of my recollection the discovery laws now
4 are different than they were then.

5 Q. Yes. And do you have a recollection, Mr. Adkins, as to
6 whether or not my office provided for you, notwithstanding
7 the absence of law, virtually an open file for your prepara-
8 tion of your defense?

9 A. I believe that's correct.

10 Q. And I believe, as Mr. Fuller testified, that on at least
11 one occasion that I made the arrangements for you to interview
12 the arresting officer, or whoever it was you were having
13 difficulty talking to?

14 A. I don't have any independent recollection of that, Mr.
15 Roberts.

16 Q. All right, sir. And with regard to the search and
17 seizure of certain evidence, upon the State's attempt to
18 introduce it, objection was made and a voir dire was conducted
19 with regard to search, was it not?

20 A. Yes, sir.

21 Q. And after hearing extensive testimony from the defense
22 and the State, the Court ruled that the items were admissible?

23 A. That is correct.

24 Q. And one of your issues on your appeal was the admissi-
25 bility through a consent search and the Supreme Court of the

1 State of North Carolina ruled that the search, based on the
2 totality of circumstances, was consensual, Justice Moore
3 writing that opinion, is that not correct?

4 A. I believe that's correct.

5 MR. ROBERTS: Thank you very much, Mr. Adkins.

6 THE COURT: Anything further from this witness?

7 MR. GROSSMAN: No.

8 THE COURT: Mr. Adkins, you may stand down.

9 (The witness is excused.)

10 JOHN KENNEDY, being duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. GROSSMAN:

12 Q. State your name, please.

13 A. My name is John Kennedy.

14 Q. Mr. Kennedy, what is your occupation?

15 A. I'm the executive editor of the Concord Tribune.

16 Q. Mr. Kennedy, what was your occupation in September of
17 1976?

18 A. I was managing editor of the Concord Tribune.

19 Q. As such, did you have an employee named Dale Ritchie?

20 A. I did.

21 Q. Did you review her articles?

22 A. I have, briefly, yes.

23 Q. Were you her supervisor at that time?

24 A. Yes, I was.

25 Q. Did you check with her regarding her articles?

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1 A. At that time, yes.

2 Q Did you try to determine whether those articles were

3 factually correct?

4 A. Yes, sir, we certainly did.

5 Q To the best of your knowledge, your independent knowledge,

6 were those articles factually correct?

7 A. They were.

8 Q Have you reviewed the general circulation of the Concord

9 Tribune in 1976?

10 A. Yes, sir.

11 Q What is that general circulation?

12 A. Eleven thousand two hundred.

13 Q Do you recall the population of Cabarrus County in 1976,

14 approximately?

15 A. Population, eighty thousand.

16 Q Total, in the City of Concord?

17 A. About eighteen thousand.

18 Q Okay. Now, do you remember when this crime occurred?

19 A. In reviewing the files, it occurred in April of '76.

20 Q All right, and do you recall when the trial was held?

21 A. September, early October.

22 Q Describe generally the Tribune's coverage at that time of

23 the trial.

24 A. I think the Tribune coverage was, as with any trial of

25 major, on a major crime, it was substantial but reasonable.

1 Q All right. Did you report each and every day of the
2 trial?

3 A Yes, sir.

4 Q Did you report -- have you been sitting here all morning?

5 A No, sir.

6 Q Have you been here the majority of the morning?

7 A I have been here since about 11:15 to 11:20.

8 Q All right, sir. Do you recall these rallies on behalf
9 of Mr. Long that we have been discussing?

10 A Yes, sir, I certainly do.

11 Q Describe those rallies as you know of them.

12 A They were -- there was a number of supporters of Mr. Long
13 who felt that, obviously that he had been improperly charged
14 and accused, mostly young people, mostly college aged, some
15 adults, most of them were black, a portion of them were white
16 citizens.

17 Q In the community at that time -- were you active in the
18 community as the editor of the Tribune?

19 A Yes, sir.

20 Q As such did you go out in the community to talk with
21 folks to prepare your news articles or to discuss current
22 events? If you would state orally for the record.

23 A Yes.

24 Q As such, did you talk with folks generally about State
25 versus Long?